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Don Hewitt, Executive Producer
60 Minutes
524 West 57th St.
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VIA FACSIMILE 212/757-6975

Dear Mr. Hewitt:

As the President of a public interest organization that closely tracks civil justice issues and works hard to dispel myths about the civil jury system (and a former television producer myself), I was absolutely appalled by Morley Safer's piece last Sunday called, *Jackpot Justice*.

For years, I have respected your show as a paragon of journalistic integrity. In the 1980s, *60 Minutes* engaged in some ground-breaking journalism with correspondent Ed Bradley and producer David Gelber that exposed myths about juries and the civil justice system, which were then and continue to be perpetuated by the insurance industry, drug companies, tobacco companies, medical lobbies and other special interests seeking to limit their liability from lawsuits. But Mr. Safer's segment (which comes less than one month after Andy Rooney's reckless rant, "I'm Going to Sue" – see attached response to Mr. Rooney) was one of the most specious, shoddy, grossly unfair and frankly racist pieces of tabloid journalism I have ever seen on television.

Consumer groups around the country are attempting to fight a mammoth, multi-million-dollar corporate PR and lobbying effort, headed by the U.S. Chamber of Commerce and other corporate-backed organizations, to weaken the civil justice system and limit liability for corporate misconduct. Their misnamed movement, known as "tort reform," has two main goals: to take power away from juries, and to control the judiciary with pro-industry judges.

Your segment shows just how far this movement has come in accomplishing their first goal, even penetrating formerly reputable shows as your own. As for their second goal, during the last two election cycles, the U.S. Chamber of Commerce dumped unprecedented amounts of money into Mississippi to elect pro-business judges. In 2000, they were sued by Mississippi's Secretary of State and Attorney General. In 2002, they succeeded in buying their judges.

It was not enough that the piece simply parrots the outrageous claims of the business and medical communities that Mississippi jurors are rendering large verdicts against negligent drug companies and doctors *not* because jurors have listened to the evidence in a case (unlike Mr.

Safer, I might add), but because they are poor, dumb, uneducated and black (or, in an equally unbelievable allegation, redneck and trying to render “payback for the Civil War.”)

But you don’t stop there. You allow an unidentified man to make a completely outlandish, highly inflammatory and unsupported statement that jurors in Mississippi were being paid for their verdicts. So they’re not only poor and dumb, they’re also crooks. In all of my years working on this issue, I have never heard anyone make such a preposterous allegation. Further, Mr. Safer does not demand proof. He does not even question the bizarre nature of this statement. To the contrary, he repeats it with the statement, “stories abound about jury complicity in some Mississippi cases.” This is journalism? Shame on him.

For years, the same kind of thing was spewed about Bronx, New York juries. In their 2002 study, “Is There a Bronx Effect?,” Cornell University professors Theodore Eisenberg and Martin T. Wells decided it was time to actually examine facts about this “theory,” which they described as follows:

Minorities favor injured plaintiffs and give them inflated awards. This folk wisdom in the legal community influences choice of trial locale and the screening of jurors. A Los Angeles court is said to be known by local lawyers as “the bank” because of the frequency and size of its anti-corporate awards. A newspaper article summarizing court results suggests, somewhat jokingly, that the “Bronx County Courthouse should post a warning: People who get sued here run an increased risk of suffering staggering losses.” Beliefs about the influence of factors other than race, such as income and urbanization, also are common.

When they examined actual awards, they discovered that the conventional wisdom was wrong. Specifically, they found,

Although award levels and win rates differ significantly across geographic areas, these differences often do not uniformly reflect the folk wisdom about demographic influences. In federal court trials, we find no robust evidence that award levels in cases won by plaintiffs correlate with population demographics in the expected direction. Indeed, one persistent result is a negative relation between award levels and black population percentages.

Professor Neil Vidmar of Duke University, one of the country’s foremost jury experts, has in fact done similar work dispelling myths about Mississippi juries. Why was he not interviewed for this piece?

As far as doctors having insurance problems in Mississippi, you would have to be living under a rock not to know that doctors all over the country are having similar insurance problems – skyrocketing rates, reduced coverage, policy cancellations. This has nothing to do with jurors in Mississippi. It has to do with insurance industry business practices, including misleading accounting practices that cause cyclical downturns every 10 years or so in every state in the country.

As the *Wall Street Journal* found in a front-page investigative story on June 24, 2002, “[A] price war that began in the early 1990s led insurers to sell malpractice coverage to obstetrician-gynecologists at rates that proved inadequate to cover claims.... Some of these carriers had rushed into malpractice coverage because an accounting practice widely used in the industry made the area seem more profitable in the early 1990s than it really was. A decade of short-sighted price slashing led to industry losses of nearly \$3 billion last year.” Moreover, “[I]n at least one case, aggressive pricing allegedly crossed the line into fraud. ... ‘I don’t like to hear insurance-company executives say it’s the tort [injury-law] system – it’s self-inflicted,’ says Donald J. Zuk, chief executive of Scpie Holdings Inc., a leading malpractice insurer in California. Christopher Oster and Rachel Zimmerman, ‘Insurers’ Missteps Helped Provoke Malpractice ‘Crisis,’” *Wall Street Journal*, June 24, 2002.

There is a wealth of information about this phenomenon. See Americans for Insurance Reform’s web site: <http://insurance-reform.org>. Moreover, in Mississippi, where a contentious medical malpractice “tort reform” battle was waged all last summer, Medical Assurance Co. of Mississippi notified doctors that it would be raising its rates by 45 percent in 2003 “regardless of the special session outcome” since “tort reform” will not affect medical malpractice insurance rates.

Moreover, the *Biloxi Sun Herald* reported in August 2002: “Medical groups have claimed doctors are fleeing Mississippi, relocating to states with more stable legal climates. So far, the numbers don't bear that out. In fact, the state has gained 564 doctors over the past five years. The state Medical Association has said the growth in doctors lags behind the state’s population growth. But while Mississippi still ranks last in the nation in the number of doctors per capita, it has made dramatic gains since 1995. Only four states have grown faster in physician population: Alabama, Alaska, Arkansas and South Dakota.”

Is the *Biloxi Sun Herald* a superior bastion of investigative journalism than *60 Minutes*? Well, obviously.

They’re certainly not so gullible as to make a statement like, “The situation's gotten so bad that for the first time in its 90-year history, the U.S. Chamber of Commerce warned companies about the risk of doing business in Mississippi.” Could you possibly be that naïve? The U.S. Chamber of Commerce has created an entire division devoted to obtaining immunity for businesses from lawsuits. Their “Institute for Legal Reform” is picking off states one by one, electing judges and terrorizing legislators into enacting corporate immunity laws, including tactics like threatening to pull the rug out from under a state’s economy until liability is capped. Take a look at their web site: <http://www.uschamber.com/Institute+for+Legal+Reform/default.htm>

The jury system is a hallmark of our democracy and an important safeguard of freedom. Civil juries stand as indispensable watchdogs over corporate negligence and corruption. The consensus among most judges, lawyers and jurors is that the system works extremely well. The erosion of this system, which is deeply rooted in our form of government, is especially tragic given the growing dominance of corporate America in our lives.

You should have done a better job on this segment. It has done a tremendous disservice to the important debate over juries and the civil justice system, which today are under greater attack by

corporate America than they have been in the more than 200 year history of our country. As Chief Justice William Rehnquist once eloquently wrote of the civil jury, "a right so fundamental and sacred to the citizen ... should be jealously guarded." We fought a bloody Revolutionary War to win these freedoms. We should not have to re-fight this battle within our own country today, prompted by irresponsible news magazine segments like this.

Sincerely,

Joanne Doroshow
President